

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

TRAMOND SWINT,)	
)	
Plaintiff,)	Case No. 2:09-cv-01931-PMD
)	
v.)	
)	CONSENT ORDER OF REMAND
WALMART INC.,)	
)	
Defendant.)	
)	

This matter was removed to this court on the assertion of diversity jurisdiction under 28 U.S.C. §1332. Jurisdiction under this section exists when the parties have complete diversity of citizenship and the amount in controversy exceeds \$75,000, exclusive of interests and costs. The amount in controversy requirement is tested at the time of removal. When an unspecified amount of damages is claimed, the amount is satisfied for the purposes of remand unless it appears to a legal certainty that plaintiff cannot recover damages in excess of \$75,000.00. Wright, Miller & Cooper, *Federal Practice and Procedure* §3725 (1985 Supp. 1998). Limitations on damages after removal do not affect jurisdiction; however, clarifications of the amount sought at the time of removal may result in remand. See *St. Paul Mercury Indemnity Co. v. Red Cab Co.*, 303 U.S. 283, 292 (1938) (post-removal amendment does not affect jurisdiction); *Cole v. Great Atlantic & Pacific Tea Co.*, 728 F.Supp. 1305 (E.D. Ky. 1990) (ambiguous demands may be subject to post-removal clarification); Wright & Miller §3702 (Supp. 1998).

In his Motion to Remand dated July 30, 2009, plaintiff offered that the alleged damages resulting from the claims alleged in his complaint will not exceed \$75,000.00. For this reason, the parties to this action have consented to the remand of this matter from the United States District Court, District of South Carolina, Charleston Division to the Court of Common Pleas for the Fifteenth Judicial Circuit, County of Georgetown, State of South Carolina.

No costs shall be imposed as removal was not improper given the facts then known to defendants.

IT IS SO ORDERED.



PATRICK MICHAEL DUFFY
United States District Judge

August 31, 2009
Charleston, South Carolina

WE SO CONSENT:

CHANDLER LAW FIRM
Attorneys for Plaintiff
P.O. Drawer 1889
Myrtle Beach, S.C. 29578-1889
Telephone: (843) 448-4357
Facsimile: (843) 448-4005

HAYNSWORTH SINKLER BOYD, P.A.
Attorneys for Defendant
1201 Main Street, 22nd Floor
Columbia, S.C. 29201
Telephone: (803) 779-3080
Facsimile: (803) 765-1243

By: /s/ William J. Luse
William J. Luse, Esq.
Federal ID# 09736
lusewilliam@yahoo.com

By: /s/ Robert W. Buffington
Robert W. Buffington, Fed. ID# 01563
rbuffington@hsblawfirm.com
Tigerron A. Wells, Fed. ID# 09596
twells@hsblawfirm.com

Date: August 31, 2009

Date: August 31, 2009